

REMARKS

The Office Action mailed March 23, 2010 has been reviewed and reconsideration of the above-identified application is respectfully requested in view of the following amendments and remarks.

Claims 1-13 are pending and stand rejected.

Claims 1, 8, 10, 11, 12 and 13 are independent claims.

Claims 1, 8, 10, 11, 12 and 13 have been amended.

Claims 1-3, 5, 7-10, 12 and 13 stand rejected under 35 USC 102(e) as being anticipated by Tamaki (USPPA 2003/0124976) found in PCT search report. Claims 4, 6, and 11 stand rejected under 35 USC 103(a) as being unpatentable over Tamaki and further in view of Larsson (USPPA 2005/0014464).

With regard to the rejection of claims 1-3, 5, 7-10, 12 and 13 under 35 USC 102(e) as being anticipated by Tamaki, applicant respectfully disagrees with and explicitly traverses the rejection of the claims.

In rejecting the claims the Office Action asserts that Tamaki teaches all the elements recited in the claims.

However, a review of Tamaki reveals that Tamaki teaches a MIMO system, wherein signals are transmitted through a plurality of relay nodes, which are subsequently transmitted to and received at a destination node. The received signals are then compared to a threshold value. For those signals that exceed the threshold value a control signal is provided to the corresponding relay node to continue transmission of the signal. Whereas for those signals that are below the threshold value, a control signal is not sent so as to discontinue transmission of the signal for the corresponding relay node. See for example, para. 0051, 0052, which state "[a]ccording to a third method of the determination, the pilot signal from the base station 406 and the training signal are periodically transmitted at predetermined timings. The capacity of a communication path is calculated by estimating a propagation path on the basis of the training signal and the capacity of the communication is compared with the threshold. When it is determined that

the characteristic of the communication path capacity becomes better by relaying the signal, start of relaying is determined. In the case where the start of relay is determined, a control signal indicative of a relay start demand is sent from the mobile station 408 to the base station 406. On receipt of the control signal indicative of the relay start demand, the base station 406 determines whether the number N of repeaters managed by the base station 406 satisfies the minimum number (threshold M) of repeaters required by the relay start demand or not. If it is satisfied, a control signal of relay operation directions for notifying of start of relay is transmitted to the repeater station and the mobile station. If the number N of repeater stations does not satisfy the threshold M, the base station 406 does not transmit the control signal of relay operation directions and discards the relay start demand from the mobile station. The mobile station 408 and the repeater stations which have received the relay operation directions perform transmission/reception of data at timings designated by the relay operation directions."

Accordingly, in the device taught by Tamaki each received signal is compared to a threshold value of channel capacity and those that exceed the threshold value are allowed to continue transmission and those that are below the threshold are prohibited from continuing transmission. Similar threshold comparison of the received signal is performed with regard to signal-to-noise ratio (see para. 0049) and received power (see para. 0050).

Thus, Tamaki teaches comparing the received signal, whether S/N ratio, received power or channel capacity with an appropriate threshold value and when a received signal exceeds the appropriate threshold value, a control signal is sent to the corresponding relay station to continue transmission of the signal. Otherwise, transmission is prohibited.

However, Tamaki does not provide any teaching regarding the elements of "correlating the first and second signal" or "in dependence of a correlation result, adjusting a process for processing a signal at a node," as is recited in the claims.

Assuming that the Office Action broadly interpretes the action of comparing each signal with an appropriate threshold value, as presented by Tamaki,

applicant submits that such an action fails to teach correlating the of the first and second signal, as is recited in the claims.

Futhermore assuming that the Office Action broadly interpretes the term "adjusting" as being comparable to prohibiting or discontinuing transmission from a corresponding relay station, applicant submits that such discontinued transmission is not comparable to adjusting processing disclosed.

A claim is anticipated if and only if each and every element recited in the claims is found in a signal prior art reference.

Tamaki cannot be said to anticipate the subject matter recited in the independent claims as Tamaki fails to disclose at least one element recited in the claims.

However, in order to advance the prosecution of this matter, the independent claims have been amended to explicitly recite that the first and second signals are correlated to each other and that the adjusting causes the transmission of a future source signal to be improved. No new matter has been added. Support for the amendment may be found at least on page 11, lines 17-21 ("The correlation of the first and second destination signal 31,32 with each other results in an indication, which depends on propagation differences between the signal routes followed by these destination signals (and their previous intermediate signals and their previous source signals) and on page 3, lines 27-29 ("...processing of the source signal is adjusted. Then, the performance of the source node is improved, and the transmission of a future source signal is improved.).

Tamaki fails to disclose that the received signals are correlated to each other.

For the amendments made to the independent claims 1, 8, 10, 12 and 13 to clarify the subject matter claimed as the invention and for the remarks made herein, applicant submits that the reason for the rejection of the claims has been overcome.

With regard to the remaining claims, these claims depend from respective ones of the independent claims and, hence, are also not anticipated by Tamaki by virtue of their dependency upon an allowable base claim.

With regard to the rejection of claims 4, 6 and 11 under 35 USC 103(a) as being unpatentable over Tamaki and further in view of Larsson, applicant respectfully disagrees with and explicitly traverses the rejection of the claims.

Larsson discloses a wireless communication network using relaying wherein a transmitter provides signals to relay stations that forward the received signal to a receiving system. Larsson teaches that the receiving system characterizes the corresponding channels based on signals received on a first channel and a second channel. The channel characteristics are provided to the relay stations so as to adapt their forwarding based on the provided channel characteristics.

Thus, Larsson teaches the characterization of the signals received on two channels and uses this characterization to adjust the forwarding characteristics of the relay stations. Larsson fails to teach the correlation of the signals received on the two channels and using the results of the correlation to perform adjusting, as is recited in the claims.

Claims 4 and 6 depend from claim 1, which has been shown to include subject matter not disclosed in claim 1, and Larsson fails to provide any teaching regarding correlating the received signals, as is recited in the claims.

Independent claim 11 recites subject matter similar to that recited in claim 1, and as shown Larsson fails to disclose correlating the first and second received signals to adjust the characteristics of the relay stations.

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference

or combined references must teach or suggest all the claim limitation. However, the Court in *KSR v. Teleflex* (citation omitted) has held that the teaching, suggestion and motivation test (TSM) is merely to be used as a helpful hint in determining obviousness and a bright light application of such a test is adverse to those factors for determining obviousness enumerated in the *Graham v. John Deere* (i.e., the scope and content of the prior art, the level of ordinary skill in the art, the differences between the claimed invention and the prior art and objective indicia of non-obviousness) (citation omitted).

In this case, the combination of Tamaki and Larsson cannot render obvious the invention claimed in independent claim 11 and dependent claims 4 and 6 as the combination of the cited references fails to disclose a material element recited in the claims.

Applicant submits that the reason for the rejection has been overcome.

For the remarks made here, applicant submits that the reason for the rejection of the aforementioned claims has been overcome.

For the amendments made to the claims and for the remarks made herein, applicant submits that all the rejections have been overcome and respectfully requests that the rejections be withdrawn and a Notice of Allowance be issued.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended the claims solely to facilitate expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the applicant's representative at the telephone given below.

No fees are believed necessary for the timely filing of this paper.

Respectfully submitted,
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